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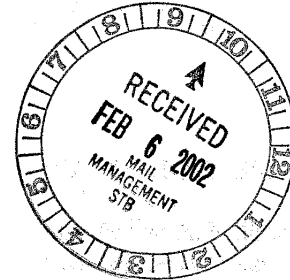
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February 6, 2002

VIA HAND DELIVERY

Mr. Vernon A. Williams
Surface Transportation Board
Office of the Secretary
1925 K Street, N.W.
Washington, DC 20423



**Re: STB Finance Docket No. 34040, Riverview Trenton Railroad
Company -- Acquisition and Operation in Wayne County, Michigan**

Dear Secretary Williams:

Wayne County continues its virtually daily, eleventh hour submissions in an effort to obfuscate the facts before the Board and delay a final decision, expected on or about February 15, 2002, in the related class exemption investigation proceeding, Docket No. 33980. The County's latest submission, dated February 4, 2002, is a letter transmitting a "technical analysis" of the Riverview Trenton Railroad Company rail project undertaken by an environmental consulting firm retained by the County, Burns & McDonnell ("BMCD"). The Board should reject this tardy filing, which does no more than attack the work of the Board's own Section of Environmental Analysis ("SEA"), including SEA's recently-released Post-EA, which concluded that the RTRR project "would not significantly affect the environment if the recommended mitigation measures are imposed by the Board."

Comments on SEA's thorough, two-volume October 15, 2001 Draft EA were due on November 26, 2001, reflecting an extension from the original November 14 comment deadline. (The County previously submitted comments, on November 21, 2001.) The February 4 submission, coming over two months after the comment deadline, is not only well out of time, but offers no legitimate basis for reconsideration of the EA. The County's contrived justification for its tardy submission should be seen for what it is -- another desperate effort by the County to delay a decision in this proceeding and thereby advance its goal of stifling rail transportation that it perceives as being inconsistent with its amorphous plans for the currently industrial Riverview/Trenton area.¹

¹ The County explains that it made this submission late because it thought that the Board would dismiss the RTRR Petition for Exemption or initiate a proceeding. This excuse rings

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Several specific points raised by the February 4 filing merit a brief response. First, the County claims (as it did in its January 30, 2002 letter) that RTRR has made significant "recent changes" to its proposed rail project, namely the relocation and straightening of Jefferson Avenue.² This is simply not true. As RTRR has previously explained, the County and communities have opposed RTRR's operation as being at odds with local efforts to "change the image" of the area. For several months, RTRR thus has been in discussions with the County and communities to address such issues. As part of these ongoing discussions with local communities, and to demonstrate that its planned rail operations can coexist with local interest in facilitating recreational access to land bordering the Detroit River, RTRR developed a conceptual working plan for further study and possible long-term development. RTRR's conceptual rendering of a relocated Jefferson Avenue is just that: a concept addressed in the course of discussions with local officials. Neither the County nor local officials have accepted this concept and for the immediate future, at least, Jefferson Avenue will remain right where it is. In short, SEA analyzed the RTRR project based on a set of facts and assumptions that remain unchanged, and no further analysis is required.

Further, if Jefferson Avenue, a public street, were to be relocated, that decision could only be taken by government authorities, not RTRR alone. Any possible (and at this point speculative) future relocation of Jefferson Avenue that might evolve from an agreement with the County or local officials also would not fall within the jurisdiction of this Board and would not require any further environmental analysis or mitigation by the Board as it would not impact RTRR's planned rail activities or other matters within the Board's jurisdiction.

Second, BMCD's claims notwithstanding, RTRR has described its plans for its project, including the rehabilitation of track on its property. It has done so accurately and to the presumed satisfaction of SEA, after extensive consultations with SEA staff. RTRR has also previously responded to the claim that its property is insufficient to handle trains of the anticipated length.³ Further, SEA was aware of the Due Care Plan prepared, under guidelines of the Michigan Department of Environmental Quality, for RTRR with respect to various environmental conditions in this historically industrial area. SEA has recommended adherence

hollow in the face of the fact that the Board issued its Draft EA on October 15 and set a very clear deadline for comments.

² The County's January 30 letter transmits the transcript of a town meeting that the County helped organize to focus local opposition to the RTRR project. As RTRR has previously explained, much of that opposition is based on information that is simply not accurate, e.g., RTRR's does intend that its rail line or property will be used to transport waste originating in Canada.

³ See December 19, 2001 letter from undersigned counsel replying to GTW's environmental submission.

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to that Plan as a mitigation measure. BMCD's uninformed critique of the SEA analysis, and the Due Care Plan, is based on adverse assumptions designed purely to offer credence to the County's preconceived conclusions.

Third, BMCD's arbitrary recalculation of the level of truck and rail traffic that would utilize the RTRR facility does not merit serious consideration. BMCD was obviously hired late in the process for the purpose of alleging faults or shortcomings with the Draft and Post EA issued by SEA. One way it has done so is to challenge the assumptions that were used in the traffic forecasts reflected in the Draft EA. However, those assumptions were based on the best data available to the entity that actually will operate the line and the facility. BMCD's own assumptions are no more than its own "guesstimates" designed, not surprisingly, to show that there could be more traffic than has been assumed in the Draft EA. Significantly, moreover, BMCD does not claim that its own estimates, even assuming that they were credible, would result in the need for any additional safety or other mitigation or would cross any thresholds that would warrant further environmental analysis. BMCD also attempts to make something out of nothing by criticizing SEA's analysis of hazardous materials transport by RTRR. As SEA properly found, RTRR will be operating an intermodal facility and no carriage of bulk volumes of hazardous materials is planned. Further, RTRR is obligated to conform to all applicable regulations governing hazardous materials transport and to develop a spill prevention and contingency plan.⁴

Fourth, BMCD criticizes SEA's assessment of the no-action alternative and its determination that the possible future development of water transfer facilities is outside the scope of the EA analysis. As to the no-action alternative, the County's plans for the RTRR property remain ambiguous at best in the event that RTRR project were not to go forward. At this stage, the County and localities are more focused on stifling rail transportation than making any concrete plans that could have been assessed by SEA, as RTRR has previously shown. As to the water transport development issue, SEA has already appropriately addressed this point in its Post-EA.

Fifth, Wayne County accuses SEA, and the Board, of the "inappropriate retention" of URS Corporation to consult with SEA in this matter. This allegation of impropriety is groundless. SEA's own staff was intimately involved in preparing the Draft and Post EA, in reviewing and confirming the facts reflected in those documents and in developing its own conclusions and recommendations. Further, the County's proposal that the Board should require RTRR to replace URS at this late stage, after the Post EA has been issued, borders on the absurd.

⁴ Stretching to the limit its obvious charge to raise issues in the hope that something might stick, BMCD even criticizes SEA for not imposing mitigation in the form of an anti-terrorist plan for the RTRR operations. Were any such requirement imposed, it of course should be imposed on an industry-wide basis so that all rail carriers, including GTW, were subject to the same requirements.

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The RTRR project has undergone a significant environmental study by SEA.⁵ RTRR's Petition for Exemption is now ripe for a Board decision.

Respectfully,



David H. Coburn
Attorney for Riverview Trenton Railroad
Company

cc: All parties of record

⁵ It is ironic that if GTW choose to build an intermodal facility in the same area along its existing line, it would not require Board permission or any environmental review at all by the Board. Yet GTW is among the parties calling for further environmental review of RTRR's project.